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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINN

In the Matter of:)	
)	
KYLA MAZHARY-CLARK,)	
)	
Petitioner,)	
)	
and)	Case No. 19DR03123
)	
JAMIE CLARK,)	
)	
Respondent,)	
)	
And)	
)	
KENNETH CLARK,)	
)	
Respondent.)	

VIDEOCONFERENCE DEPOSITION OF KYLA MAZHARY-CLARK
Taken on behalf of Respondents

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the videoconference deposition of KYLA MAZHARY-CLARK was taken before Traci R. Moore, a Professional Court Reporter and Notary Public, on Thursday, April 28, 2022, commencing at the hour of 9:00 a.m.; the witness responding to questions being propounded and proceedings reported by videoconference.



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APPEARANCES

FOR THE PETITIONER:

LAW OFFICER OF IVERS & MILLER
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FOR THE RESPONDENT JAMIE CLARK:

LAW OFFICE OF LANCE YOUD
By: Lance D. Youd
1596 Liberty Street SE
Salem, Oregon 97302
lance@youdlaw.com

ALSO PRESENT: Jamie Clark, via videoconference

* * *

1 deposition taken before?

2 A. No.

3 Q. Have you taken a deposition before?

4 A. Yes.

5 Q. You are an attorney in the state of Oregon?

6 A. Yes.

7 Q. And how long have you been an attorney in
8 Oregon?

9 A. A little over a year.

10 Q. Okay. There are some rules about a deposition.
11 You have probably given the rules or at least heard the
12 rules. I always want to make sure that you're able today
13 to understand what's being asked and answer accordingly.

14 Do you feel comfortable mentally and
15 emotionally today to be able to understand what's being
16 asked and answer honestly?

17 A. Yes.

18 Q. Do you understand that we have to use words in
19 this process? We can see each other. I understand that,
20 but head shakes won't be picked up by the court reporter.
21 So it's preferable to say yes or no, correct or
22 incorrect.

23 Do you understand that?

24 A. Yes, I understand.

25 Q. Sometimes the words uh-huh or huh-uh, which, I

1 what your address was?

2 A. It was 991 Hayes Avenue, Apartment, I
3 believe, 210 in Corvallis 97330 I believe is the
4 ZIP code.

5 Q. Okay. And approximately how long did you live
6 at the Hayes address?

7 A. I think it was approximately two years.

8 Q. Okay. Do you have any children?

9 A. Yes, I have two.

10 Q. What are their names?

11 A. Sage Clark and Sadie Clark.

12 Q. Okay. Do you consider those your children
13 or --

14 A. Yes.

15 Q. Do you have any biological children?

16 A. No.

17 Q. Do you have any biological children?

18 A. No, I do not.

19 Q. Okay. Do you have a current significant other?

20 A. Yes, I do.

21 Q. Who is that?

22 A. Kelly Fitzpatrick.

23 Q. All right. And does that person reside with
24 you?

25 A. Yes, they do.

1 A. October of 2020.

2 Q. This year have you taken a trip outside of the
3 State of Oregon?

4 A. Yes.

5 Q. Where have you gone this year?

6 A. California. And I apologize. That was
7 actually last year. It was 2021.

8 Q. Okay. What was the month of travel?

9 A. December of 2021.

10 Q. Okay. And how long were you in California?

11 A. Approximately a week, I think.

12 Q. And did you travel down to California with
13 someone?

14 A. Yes.

15 Q. Who went with you?

16 A. My children, Sage and Sadie.

17 Q. Did you travel by airplane or other means?

18 A. We drove.

19 Q. Okay. And what did you do in California?

20 A. We visited my family and just went to different
21 sightseeing activities.

22 Q. Okay. Where does your family live in
23 California?

24 A. Throughout California, primarily Tracy,
25 California.

1 right?

2 A. That's correct.

3 Q. You did not speak to a doctor or a counselor?

4 A. No.

5 Q. Did you speak to anybody who worked for the
6 facility?

7 A. I don't believe so, no.

8 Q. And where were the children when she was in the
9 facility?

10 A. They were in foster care.

11 Q. And with whom were the children in foster care?

12 A. I do not know.

13 Q. I presume you don't have a criminal history of
14 any kind; is that correct?

15 A. That's correct.

16 Q. Okay. Are you aware of Ms. Clark having a
17 criminal history of any kind?

18 A. Not that I know of, no.

19 Q. Okay. Do the children call you mom?

20 A. They call me Momma.

21 Q. Do you list yourself as their mother on school
22 records?

23 A. I usually list myself as mother/custodial
24 parent.

25 Q. So on what records would you have listed

1 yourself as mother/custodial parent?

2 A. On school records and, you know, doctor intake
3 forms.

4 Q. You are not the children's mother, are you?

5 A. I believe I am, yes.

6 Q. In what way are you the children's mother?

7 A. I care for them daily. They've been living
8 with me for over two years now. I provide all care for
9 them, take them to doctor's appointments, sign them up
10 for school, all of the typical things that a mother would
11 do.

12 Q. And you don't think it would be confusing to
13 the children to refer to you as mother knowing that they
14 have another biological mother?

15 A. I let the children decide what they wanted to
16 call me. They do refer to Ms. Clark as Mommy and they
17 refer to me as Momma. It does not seem to cause any
18 confusion with them.

19 Q. But, I mean, referring to yourself as their
20 mother perhaps in the presence of others at school or at
21 medical appointments, you don't think that's a concern
22 for the children?

23 A. No.

24 Q. Maybe I should have asked you this initially.
25 You have the last name Mazhary-Clark and my client has

1 the last name Clark. Is that coincidental?

2 A. It is.

3 Q. Are you related in any way?

4 A. Not that I know of, no.

5 Q. Okay. Great. You filed a petition for
6 psychological parent custody in this case on
7 February 14th of 2019, right?

8 A. Yes.

9 Q. I sent by email and by fax this morning and
10 last night over to your attorney's office some exhibits.
11 I'm going to refer to Exhibit No. 1.

12 A. Okay.

13 Q. And at the time you filed this document -- it's
14 kind of a big document there. I've just taken the court
15 file and marked it as Exhibits 1 and page numbered it.
16 The one on top there, Exhibit 1, page 1 is the first page
17 of the petition for psychological parent custody.

18 Is that what you see?

19 A. Yes.

20 Q. Okay. And were Sadie and Sage in your care at
21 the time you filed that?

22 A. They were not physically residing at my
23 address, no.

24 Q. Okay. When was the last time prior to your
25 filing that that they had physically resided at your

1 address?

2 A. I don't recall. A couple days before that.

3 Q. Okay. Did they spend the night with you within
4 the week prior to February 14, so February 7th through
5 the 14th?

6 A. I -- I don't -- I don't know.

7 Q. Okay. Do you recall February 4th as being a
8 date where Ms. Clark took her children back from you?

9 A. That could be the day. I know it was around
10 that time.

11 Q. Okay. So hadn't it really been about ten days
12 since Ms. Clark had taken the children when you filed
13 this on February 14th of 2019?

14 A. If -- if February 4th was the day, then, yes.

15 Q. Okay. Did you advise the court in this
16 paperwork when you filed it that the children had been
17 with their mother for ten days prior to your filing it?

18 A. No.

19 Q. Why?

20 A. I don't know.

21 Q. Okay. Page 2, go ahead and turn to page 2. Do
22 you have that?

23 A. Yes.

24 Q. Page 2 of the petition says that the children's
25 address from November -- it looks like November 4th,

1 2018, to the present time it was 3442 Liberty Road South.

2 That's your current residence, isn't it?

3 A. Yes.

4 Q. Okay. But that wasn't accurate, was it?

5 A. Can you clarify?

6 Q. Yeah. You said from November 4th, 2018, to the
7 present. That was not accurate, was it?

8 A. They had been living with me. Ms. Clark and I
9 were attempting to fix things, I guess, after a
10 disagreement regarding parenting time. So to me it was
11 accurate, yes.

12 Q. But they hadn't lived in your home for ten days
13 as of that date you filed that, correct?

14 A. Correct.

15 Q. And they were with Ms. Clark and she was
16 refusing to let you have them, right?

17 A. Correct.

18 Q. Wouldn't that have been an important fact to
19 tell the court?

20 A. No.

21 Q. Now my client, the mother of the children, had
22 custody of the children in a legal proceeding between
23 herself and the father since 2017. Did you know that?

24 A. Yes.

25 Q. You did not modify the judgment in that case,

1 did you?

2 A. No.

3 Q. Now also on that second page there on kind of
4 the second bracket down talking about where the children
5 have lived, it says that, "Sage and Sadie have lived with
6 respondent Jamie Clark from November" -- sorry -- "from
7 June 20th, 2018, to November 4th, 2018."

8 And that was in Illinois; is that right?

9 A. Yes.

10 Q. And that is accurate, correct?

11 A. Yes.

12 Q. Wasn't it in fact then that they were in
13 Illinois even before that but just at a different address
14 from --

15 A. Yes, sir.

16 Q. I'm sorry. I will let you answer that.

17 A. Yes.

18 Q. So they had been, at least according to your
19 records here, your petition here, they had been in
20 Illinois from January of 2018 through November 4th of
21 2018. That's about ten months; is that right?

22 A. Yes.

23 Q. And then they had been back in Oregon from
24 November of 2018 through February 14th of 2019, when you
25 filed this. So about three months, correct?

1 A. Yes.

2 Q. On page 2 through, still paragraph 4, you
3 allege in your petition, which I believe you prepared for
4 yourself; is that right?

5 A. Yes.

6 Q. You didn't pay for the assistance of an
7 attorney in preparation for this?

8 A. That's correct.

9 Q. Okay. You allege that "Oregon has jurisdiction
10 to make child custody determinations under the Uniform
11 Child Custody Jurisdiction and Enforcement Act because
12 Oregon is the home state of the petitioner and the minor
13 children." When you refer to Oregon as their home state
14 what did you mean?

15 A. That the children were presently residing in
16 Oregon.

17 Q. Okay. And then the sentence goes on and says,
18 "And the petitioner has resided there continuously for at
19 least six months preceding the filing of this action."

20 Do you see that?

21 A. Yes.

22 Q. Okay. Isn't it true that home state under the
23 Uniform Child Custody Jurisdiction and Enforcement Act is
24 where the children have resided for the preceding six
25 months?

1 A. I don't know.

2 Q. You're not aware that that's what home state
3 means?

4 A. No.

5 Q. So was your intent in this paragraph to be
6 careful to say that Oregon is the home state of the
7 petitioner and the minor children and then that
8 petitioner has resided there continuously for at least
9 six months preceding the filing of this action?

10 A. Yes, I believe that's how it reads.

11 Q. Yeah. Were you intending to make a difference
12 there between the children having lived in Oregon for six
13 months and yourself having lived in Oregon for six
14 months?

15 A. Yes.

16 Q. Why did you refer to six months?

17 A. I believe -- I believe it had to do with
18 jurisdiction. It's been a while since I filed this.

19 Q. Yeah. And your understanding was that the
20 children needed to reside in Oregon for six months before
21 this court had jurisdiction, correct?

22 A. No.

23 Q. What was your understanding?

24 A. I believe only one party needs to reside in
25 Oregon.

1 Q. If we're talking about jurisdiction of the
2 children, then why would the party's place of residence
3 be important?

4 A. I'm not sure. I didn't write the law.

5 Q. But it's clear the children had not been in
6 Oregon for six months, only about three, right?

7 A. Yes, correct.

8 THE WITNESS: Can we take a short break?

9 MR. YOUD: Let's do a ten-minute break
10 right now. Does that sound fine?

11 THE WITNESS: Thank you.

12 (Recess.)

13 BY MR. YOUD:

14 Q. Ms. Mazhary-Clark, we're just back from a
15 break. Do you have anything to add or change to your
16 testimony thus far?

17 A. No.

18 Q. Okay. On page 2, again, of that petition
19 that's there in front of you, Exhibit 1, it refers in the
20 timeline of where the children have lived to their being
21 in foster care. When you say foster care what were you
22 describing, what did you mean by foster care?

23 A. There was a pending DHS or -- I think is DCFS
24 in Illinois -- investigation into Ms. Clark and she was
25 not allowed to have them in her custody, so they lived at

1 A. Yes.

2 Q. Again, to be clear. They've not been received
3 yet?

4 A. No, not yet.

5 Q. Okay. So when you filed this paperwork were
6 you in law school at that time?

7 A. Yes.

8 Q. Okay. Before coming back to Oregon with the
9 children in November of 2018, according to your petition,
10 did you sign paperwork with mother regarding the
11 children?

12 A. Yes, Ms. Clark and I signed paperwork.

13 Q. What paperwork did you sign?

14 A. It was guardianship paperwork in Illinois.

15 Q. Do you still have copies of that paperwork?

16 A. I believe so, yes.

17 Q. Okay. And more than one document or one
18 document?

19 A. There were a couple different papers for each
20 child.

21 Q. Do you recall what those papers were?

22 A. Temporary guardianship paperwork.

23 Q. Okay. So one document could have been entitled
24 what?

25 A. I don't know. I don't have the documents in

1 front of me.

2 Q. Okay. You don't know what the name of either
3 one would be?

4 A. I -- all I know is it had to do with
5 guardianship.

6 Q. Did you sign either one?

7 A. I don't recall if I signed them.

8 Q. Did Ms. Clark, my client, sign either one?

9 A. Yes.

10 Q. And was her signature required on both?

11 A. I believe so, yes.

12 Q. Were those documents to be filed in court or
13 not filed in court?

14 A. It was my understanding for Illinois they did
15 not require -- they were not required to be filed in
16 court. But I don't practice in Illinois, so I'm not
17 sure.

18 Q. And it was your understanding that they could
19 terminated voluntarily by the parent, my client, at any
20 time; is that right?

21 A. Yes, I believe so.

22 Q. Isn't it true that you told my client that you
23 had guardianship and that you would not return the
24 children to her?

25 A. No.

1 Q. What did you tell her about your right to have
2 the children when she returned to Oregon?

3 A. We had many discussions. We were working out a
4 parenting plan.

5 Q. She did not request the return of her children?

6 A. When she returned to Oregon?

7 Q. Yes.

8 A. No.

9 Q. When you returned to Oregon did you tell her
10 you would not be returning the children to her?

11 A. No, I did not say that.

12 Q. In November of 2018 after returning to Oregon
13 with the children did you have a conversation with mother
14 where you led her to believe that you had legal
15 guardianship and would not be returning the children to
16 her?

17 A. No.

18 Q. Okay. Did you have a conversation where you
19 said, if you want to have the children back, come take
20 them, you're welcome to have them?

21 A. No.

22 Q. When did Ms. Clark, my client return to Oregon,
23 do you recall after November of 2018?

24 A. It was, like, two, three weeks after. I'm not
25 entirely sure on the timeline.

1 Q. Okay. And wasn't she motivated by coming to
2 get her children from you?

3 A. I don't know her motivations. It was my
4 understanding that she was evicted and that's why she was
5 moving.

6 Q. Okay. What documentation do you have of her
7 being evicted?

8 A. Text messages.

9 Q. When Ms. Clark returned to Oregon what
10 parenting time did you allow her with her children?

11 A. We were working on a couple different parenting
12 plan arrangements. Her living situations were {in flux,
13 so we just agreed on parenting time as worked best for
14 her situation.

15 Q. All right. So there was no real negotiation
16 about this parenting time. She just told you what you
17 wanted and that's what you accepted; is that right?

18 A. No. We talked -- like I said, we had been
19 working on different parenting plans. We were trying to
20 come up one, a final one basically that would control
21 parenting time for both, both of us.

22 Q. Okay. Well, if she's the mother of the
23 children and she understands she has the right to
24 terminate this temporary guardianship, whatever you
25 explained was done in Illinois, why would there be a

1 negotiation of any kind?

2 A. Because we were both parenting the children.

3 Q. Where are those documents now that you had
4 Mrs. Clark sign in Illinois?

5 A. I -- in my file cabinet.

6 Q. Okay. And where did you obtain those documents
7 to even present them to Ms. Clark?

8 A. I -- I believe I did some online research and
9 found the documents through the state website.

10 Q. Okay. And just printed them off then?

11 A. Yes.

12 Q. Did they have court letterhead on them, like a
13 caption that you might see in a legal pleading?

14 A. I don't recall. It's been a long time since
15 I've looked at those documents.

16 Q. Now on February 4th of 2019, so I'm talking
17 just about three months after your having returned to
18 Oregon with the children, mother received her children
19 for what you had called parenting time and then refused
20 to return the children; isn't that right?

21 A. Yes.

22 Q. And did you show up at her address to get the
23 children back from her?

24 A. Yes.

25 Q. Why?

1 A. Because of the parenting time agreement that
2 was the time that I was supposed to pick them up.

3 Q. Okay. Mother had still maternal rights to the
4 children, correct?

5 A. If she had terminated the guardianship, yes.

6 Q. Oh, so you're saying the guardianship wasn't
7 terminated by her taking her children back?

8 A. At that point we were still discussing
9 parenting time, so I don't know.

10 Q. What would it have taken in your mind for her
11 to terminate the guardianship?

12 A. Her telling me that it was terminated. That
13 was part of the discussion we had that day.

14 Q. Okay. Well, she took the children back from
15 you and refused to return them. Wasn't that a
16 termination of the guardianship?

17 A. It can be, yeah.

18 Q. Okay. You nonetheless went to her house. You
19 tried to enter the door by just turning the door and
20 found it locked; is that right?

21 A. No.

22 Q. What happened when you got to her house?

23 A. I either -- I think I called her at that point
24 so we could discuss why she had decided to not go forward
25 with the agreement we had on parenting time. And her and

1 I talked for a bit, her and her fiance' at the time and I
2 talked for a bit. And then it became clear that the
3 discussion wasn't productive, so I left.

4 Q. Is it true that you pounded on the door?

5 A. No.

6 Q. Did you knock on the door?

7 A. I believe I did knock, yes.

8 Q. Okay. Was it (inaudible) --

9 COURT REPORTER: What was that?

10 BY MR. YOUD:

11 Q. Was the knock soft or hard?

12 A. A normal knock. I mean, it was loud enough so
13 she could hear it. They were living in a trailer so it
14 was rattly doors.

15 Q. You refused to leave, didn't you?

16 A. No.

17 Q. Okay. Were the police called?

18 A. Yes.

19 Q. Okay. Who called the police?

20 A. Jamie did or Ms. Clark.

21 Q. Why did she call the police?

22 A. I'm not sure.

23 Q. Did the police ask you to leave?

24 A. No.

25 Q. What did the police advise you of?

1 A. They called me and advised that I was
2 trespassed from Ms. Clark's property.

3 Q. Okay. Did mother explain to you why she was
4 taking the children back from you?

5 A. No.

6 Q. Not (inaudible) --

7 MR. IVERS: Lance, you --

8 THE WITNESS: He broke up again.

9 BY MR. YOUD:

10 Q. Not in that phone conversation there at the
11 door at their house, you're saying that she did not
12 explain why she was not returning the children?

13 A. Not that I recall, no.

14 Q. Okay. Did she advise you and allege that you
15 had tricked her into believing that you had guardianship?

16 A. No.

17 Q. Did she ever allege that you had tricked her
18 into believing that you had some legal form of
19 guardianship?

20 A. I don't believe so.

21 Q. Was it ten days after that phone call with the
22 police department that you filed the paperwork with the
23 court to try to get custody of these children?

24 A. I believe so, yeah.

25 Q. Again, you didn't advise the court of any of

1 those occurrences regarding mother having taking the
2 children back, had them for ten days and the police being
3 involved?

4 A. No. She could have -- you know, we had been
5 talking. I was hoping that we would be able to resolve
6 it without a court filing. I don't believe any of that
7 information is required by the statute that I was working
8 under.

9 Q. You don't think it was required to tell the
10 court where the children had resided for the preceding
11 five years?

12 A. I did inform the court of that.

13 Q. But you didn't inform them of where they
14 resided for the previous ten days?

15 A. No. At that point I -- like I said, we had
16 been negotiating and I hoped that they would be returned
17 and we could continue the parenting time as we had.

18 Q. So you're talking about negotiating, but you're
19 filing a petition. So did you really believe that there
20 was going to be further negotiation in regard to the
21 children residing at your home?

22 A. At the time of filing the petition, no. That's
23 why the petition was filed.

24 Q. Okay. Go to Exhibit No. 3 -- actually, not
25 three. I'm sorry about that. It's two, Exhibit 2.

1 That's a General Judgment of Psychological parent
2 Custody. Do you have that document?

3 A. Yes.

4 Q. Okay. On page 3 written with my handwriting
5 there. I have to find the right one here. Just a
6 moment. I'm going to strike that and come back to that
7 later. Let's go back to Exhibit 1, page 3 of Exhibit 1.

8 A. You broke up. Was that page 3 of Exhibit 1?

9 Q. That's correct. Do you have that?

10 A. Yes.

11 Q. You advised the court that you had guardianship
12 of the children; is that correct?

13 A. Yes.

14 Q. Okay. And by saying guardianship did you mean
15 that a judge had signed a guardianship appointing you as
16 the guardian over a ward?

17 A. No.

18 Q. You're talking about this document that you
19 signed, right?

20 A. Yes.

21 Q. The document that could be terminated at any
22 time, that document?

23 A. Yes.

24 Q. Okay. So to be clear. You weren't talking
25 about a legal proceeding other than like a -- was that

1 document notarized?

2 A. I don't believe so, no.

3 Q. So an unnotarized document saying you could
4 care for her children is what you're referring to as a
5 guardianship; is that right?

6 A. Yes.

7 Q. Okay. In that same paragraph 5 there you refer
8 to yourself, and I'm looking at line 5, paragraph 5,
9 line 5, you refer to yourself as the aunt.

10 A. Yes.

11 Q. Were you the children's aunt?

12 A. Not biologically.

13 Q. So you're not related to the children?

14 A. Correct.

15 Q. And so in what way are you their aunt, if
16 you're not biologically their aunt?

17 A. It was just the best term I could come up with
18 to define the relationship that I had with the children.

19 Q. So caregiver might not be good enough? Aunt
20 was the right word?

21 A. Either one I think is fine.

22 Q. Okay.

23 A. They -- at the time they were referring to me
24 as aunt, so that's the term I went with.

25 Q. Okay. You advised in paragraph 6, you stated

1 that the mother has exercised only sporadic parenting
2 time since moving back to Oregon, right?

3 A. Yes.

4 Q. Again, you didn't tell the court that the
5 children had been with mother for ten days prior to your
6 filing this petition, had you?

7 A. Correct.

8 Q. So between November 5th of 2018 when you return
9 to Oregon with the children and February 4th of 2020 when
10 mother had taken the children and refused to return them
11 to you -- did I get those dates right or am I wrong?

12 A. I believe it was November 4th, 2018, to
13 February 4th, 2019.

14 Q. '19. Thank you. What parenting time did you
15 allow mother during that period?

16 A. Ms. Clark and I worked, like I said, on
17 multiple different parenting plans. It depended on where
18 she lived how much parenting time she was able to
19 exercise.

20 Q. So what was that parenting time that she
21 actually exercised?

22 A. Like I said, it depended. There was a time
23 period where she lived about four hours away from us, and
24 so I think she saw them maybe every other weekend, maybe
25 just one weekend.

1 Q. Okay. And did she have the children with her
2 during those weekends?

3 A. I believe so, yes.

4 Q. Okay. So she exercised a weekend of parenting
5 time and she took the children and exercised that
6 parenting time and then came back. Is that the way it
7 worked?

8 A. So when she lived in Mapleton, we met halfway
9 so neither one of us had to drive eight hours. And then
10 when she moved to Albany, usually I did the exchanges
11 because Ms. Clark doesn't drive. Sometimes her fiance'
12 would do half of the exchange, but generally I would pick
13 up and drop off the children.

14 Q. Did you keep notes of these parenting times
15 that took place?

16 A. Yes.

17 Q. Where are those notes?

18 A. In my file cabinet.

19 Q. Did you review anything in preparation for
20 today's deposition?

21 A. I reviewed the pleadings.

22 Q. And when you say pleadings, which ones?

23 A. The documents that have been filed in this case
24 so far.

25 Q. Like the exhibits that I sent over?

1 A. Yes.

2 Q. Okay. Did you review them once they'd been
3 sent or prior to that?

4 A. Once they'd been sent.

5 Q. Okay. You didn't look over your notes on the
6 parenting time from 2018 and '19?

7 A. No, I did not.

8 Q. So you filed this paperwork pursuant to what is
9 Oregon Revised Statute 109.119. You understand that,
10 right?

11 A. Yes.

12 Q. Okay. And you understand pursuant to that
13 statute that you're required to have a child/parent
14 relationship with the children when you file a petition?

15 A. Yes.

16 Q. And that that is a relationship that is to have
17 lasted for in whole or in part within the six months
18 prior to filing?

19 A. Yes.

20 Q. Okay. After mother took the children in
21 February of 2019 and then you filed this ten days later,
22 when was the next time you had any communication with
23 mother?

24 A. I had some communication with her right after
25 the February 4th date, and then I did not have any

1 additional communication with her until I think it was
2 December of 2019.

3 Q. What was the communication you had with her
4 right after the February 4th date?

5 A. Communication regarding parenting time and the
6 children's belongings.

7 Q. Do you recall about when that conversation was,
8 how long after February 4th it was?

9 A. Within the next week or so, I believe, after
10 that.

11 Q. Did you call Ms. Clark or did she call you?

12 A. I don't recall. I know there was some text
13 messages. There might have been a phone call, but I'm
14 not sure.

15 Q. Okay. And was there an agreement in regard to
16 parenting time during that communication and during that
17 correspondence?

18 A. No.

19 Q. When you spoke to her next, which I think you
20 referred to as December of 2019; is that right?

21 A. I believe so.

22 Q. How did you get ahold of her at that point in
23 time?

24 A. She had reached out to me. She had blocked me
25 on everything previously, so I had no way of contacting

1 apologized to her?

2 A. I don't believe so.

3 Q. Okay. You didn't tell her you were sorry and
4 understood that it was wrong and you wanted to be
5 friends?

6 A. I don't recall that conversation, no.

7 Q. You certainly didn't tell her that you had
8 custody of her children, did you?

9 A. Correct.

10 Q. Why was that?

11 A. I was worried about her running again.

12 Q. Mother, she didn't know you had custody of her
13 children, did she?

14 A. At that time, no.

15 Q. Okay. So she'd had them for ten months in her
16 care and reached out to you about some continuing contact
17 with you through a Facebook message?

18 A. Yes.

19 Q. Okay. What was said in that conversation then?
20 If it wasn't an apology from you, what was said?

21 A. She gave me her new phone number, because she
22 had changed it. She updated me about how the kids were
23 doing, and then she eventually asked me to care for them
24 again.

25 Q. Was that for a couple month period?

1 MR. YOUD: Yeah. Did you hear me?

2 MR. IVERS: Can we take like a five-minute
3 break?

4 MR. YOUD: Okay.

5 (Recess.)

6 BY MR. YOUD:

7 Q. So again, we're coming back from a short break.
8 Ms. Mazhary-Clark, do you have anything you would like to
9 add to or change to the testimony you have given thus
10 far?

11 A. No.

12 Q. I think I asked you to turn to page 10 of
13 Exhibit 1. Do you have that?

14 A. Yes.

15 Q. So this is entitled, Petitioner's Application
16 and Support of Application and Temporary Protective Order
17 of Restraint. This is a document that you signed on
18 February 14th of 2019.

19 You understand the intent of this document was
20 to advise the court of what the recent parenting time and
21 residence of the children had been for purposes of the
22 protective order of restraint?

23 A. Yes.

24 Q. And it's sometimes referred to as a status quo
25 order, correct?

1 A. Yes.

2 Q. So again, in this document up there starting on
3 page 10 of this exhibit but page 1 the document, you
4 don't say anything to the court about the children being
5 in their mother's care for the preceding ten days,
6 correct?

7 A. Yes.

8 Q. Okay. For the status quo order, did you not
9 believe that would be relevant?

10 A. I'm not sure.

11 Q. Okay. Turn to page 18 of Exhibit 1. This is a
12 motion to serve respondent, Jamie Clark, by posting. You
13 filed this motion on April 23rd, it looks like, of 2019.
14 Actually, at the top it says April 25th. Is that right?

15 A. Yes.

16 Q. What efforts had you made to locate her at the
17 time you filed this motion?

18 A. I hired a private investigator to attempt to
19 serve her.

20 Q. Okay. Anything else?

21 A. I was blocked on all media, so there was no
22 other attempts I could make.

23 Q. Did you call Ms. Clark?

24 A. No.

25 Q. So you didn't call Ms. Clark to tell her you

1 had filed for custody and were wanting to serve her with
2 papers?

3 A. Correct.

4 Q. Why?

5 A. Again, she had blocked me, so I had no way of
6 calling her.

7 Q. You couldn't call her on the telephone?

8 A. No.

9 Q. If you look at page 23 of this Exhibit 1,
10 that's the second page of affidavit of attempted service,
11 and it says that Shawn Blehm is the person who signed
12 this. Is this the private investigator that you are
13 referring to?

14 A. Yes.

15 Q. Okay. It says there at the last sentence, "I
16 attempted to call Ms. Clark to attempt to meet her in
17 person, but she would not disclose her location or agree
18 to meet."

19 So her phone number wasn't blocked, was it?

20 A. It -- my phone number was blocked so I was not
21 able to contact her. The private investigator, I don't
22 know if they were blocked or not.

23 Q. Okay. The private investigator didn't tell her
24 he was serving her with papers, did he?

25 A. I don't know.

1 Q. Okay. Did you tell the court that you could
2 get through to her phone number as long as it wasn't your
3 number calling?

4 A. No.

5 Q. Okay. Did you borrow someone else's phone to
6 make a call to her to tell her that you had filed
7 paperwork for custody of her children?

8 A. No.

9 Q. Did you know (inaudible) --

10 COURT REPORTER: Lance, you froze there
11 again.

12 BY MR. YOUD:

13 Q. Do you know where she was at the time?

14 A. No.

15 Q. So other than hiring the private investigator
16 to serve her and the call that apparently he made, what
17 other efforts did you make to locate Ms. Clark?

18 A. None.

19 Q. Okay. You didn't call a utility company to ask
20 if you could locate her?

21 A. No.

22 Q. Did you call family or friends of Ms. Clark?

23 A. No.

24 Q. Does Ms. Clark have family and friends?

25 A. I believe so.

1 Q. Did Ms. Clark have a significant other at that
2 time?

3 A. Yes.

4 Q. Who was that?

5 A. Cacey Turvey.

6 Q. This is Mr. Turvey who you'd had conversations
7 with about the status of the children?

8 A. Yes.

9 Q. You didn't call Mr. Turvey to ask him where she
10 was?

11 A. No.

12 Q. On that one, why didn't you call Mr. Turvey and
13 ask where she was?

14 A. He had blocked me.

15 Q. Again, you didn't use another person's number
16 or have Mr. Blehm call Mr. Turvey?

17 A. No.

18 Q. Okay. Let's turn to page 24 of Exhibit 1.
19 This document is entitled Declaration of Petitioner. It
20 looks like you signed that on the 23rd day of April,
21 2019; is that right?

22 A. Yes.

23 Q. Okay. On the second page of that document,
24 which is Page No. 25 of this exhibit -- it's actually
25 kind of in between the two pages, but at the bottom of

1 24 and top of 25, "I am blocked from seeing (inaudible)
2 or fiance's profile on social media."

3 A. Can you repeat that? You were breaking up a
4 little bit.

5 Q. Yeah. At the bottom of page 24 of that
6 exhibit, top of 25 you state, "I am blocked from seeing
7 Ms. Clark or her fiance's profiles on social media
8 platforms." Correct?

9 A. Correct.

10 Q. Okay. But that wouldn't block you from posting
11 something that they could see, would it?

12 A. I'm not sure. I'm -- I don't know.

13 Q. Okay. Did you ever post on social media
14 through Facebook, Twitter, Instagram, whatever it might
15 be, anything that Ms. Clark could have seen telling her
16 that she had been served?

17 A. No.

18 Q. Why not?

19 A. I -- in my understanding of the law, that's not
20 valid posting without a judge's permission. And I
21 believe if you've blocked somebody that you don't see
22 their posts either.

23 Q. I thought you told me a minute ago that you
24 didn't know.

25 A. I don't know. That's just -- I believe that's

1 how it works. I don't know.

2 Q. Okay. Well, wouldn't the means most likely to
3 apprise someone of a lawsuit be telling that person on
4 the telephone?

5 A. No.

6 Q. Why? If you're speaking to the person on the
7 telephone and you're telling them, I have filed suit
8 against you for custody of your children, why would that
9 not be the best means to notify someone?

10 A. I believe personal service is probably the best
11 means.

12 Q. Okay. So if you can't serve them personally
13 wouldn't telling them by telephone be the next best
14 means?

15 A. Sure.

16 Q. Okay. How about social media
17 postings? Assuming that they see them and can see them,
18 wouldn't that be a good means?

19 A. I think it depends on the person, but it could
20 be, yes.

21 Q. Okay. It says at page 25, "I am attempting to
22 serve both respondents in this matter, and I am unable to
23 afford the cost to publish the summons in a newspaper in
24 both Linn and Lane County."

25 So are you making the point that you could

1 afford to publish in one county but not in both?

2 A. No.

3 Q. Okay. Are you referring to documents as you
4 and I ask and answer questions here?

5 A. Just the exhibit book in front of me.

6 Q. Okay. You're not reviewing notes from your
7 attorney?

8 A. No.

9 Q. Okay. Were you saying you could afford to
10 publish in one county but not both?

11 A. No.

12 Q. Okay. What was the cost of publishing in a
13 newspaper?

14 A. I don't -- I don't recall. It's usually a
15 couple hundred dollars.

16 Q. Okay. So which papers did you contact in Linn
17 County?

18 A. I don't recall.

19 Q. Do you have notes of this?

20 A. No.

21 Q. Do you recall the papers you contacted in Lane
22 County?

23 A. No, I don't recall.

24 Q. So if you had to pay \$200 to serve my client by
25 publishing in a newspaper that was something you could

1 not afford?

2 A. You're breaking up again.

3 Q. Okay. So if you had to pay \$200 for publishing
4 the summons to my client in a newspaper that was
5 something you could not afford?

6 A. Correct.

7 Q. And then you say, "Posting the summons and
8 pleadings in this case at the Linn County Courthouse is
9 the most reasonably calculated method to apprise
10 respondent, Jamie Clark, of the existence and pendency of
11 this action."

12 Is that what you said?

13 A. Correct.

14 Q. That wasn't true, was it?

15 A. It was.

16 Q. How was posting on a bulletin board in the Linn
17 County Courthouse, how was that the most reasonably
18 calculated method to apprise respondent, Jamie Clark, of
19 the existence and pendency of this action?

20 A. It was the best way I knew of to advise her of
21 the petition I had filed, since I wasn't able to
22 personally serve her.

23 Q. Okay. Does the cost of publishing have
24 anything to do with the most reasonably calculated method
25 to apprise someone of a lawsuit?

1 A. I don't know.

2 Q. No, I'm asking you. Does the cost of
3 publishing have anything to do with the most reasonably
4 calculated method to apprise someone of the existence and
5 pendency of an action?

6 A. Yes.

7 Q. Okay. So the cost of \$200 has something to do
8 with a reasonably calculated method to apprise respondent
9 of the existence and pendency of the action?

10 A. Yes.

11 Q. Okay. How much did you pay Mr. Blehm for his
12 efforts in this matter?

13 A. I didn't pay him anything.

14 Q. Why not?

15 A. He was doing it as a favor.

16 Q. Okay. Do you know Mr. Blehm?

17 A. I work with him.

18 Q. Okay. Is he somebody who works with the law
19 firm there?

20 A. Yes, he works with -- yes.

21 Q. Did you send a text to Mother from your phone
22 or another person's phone to let her know that she had
23 been sued for custody of her children?

24 A. No.

25 Q. Did you send an email from your email address

1 or some other person's email address to Mother to let her
2 know that she had been sued for custody?

3 A. No.

4 Q. The same questions in regard to her significant
5 other, Cacey Turvey. Had you sent a text from your phone
6 or another person's phone or an email from your email or
7 another person's email to advise Mother that she had been
8 sued for custody?

9 A. No.

10 Q. Okay. Turn to page 43. This is entitled on
11 the first page of this document, of Declaration of
12 Nonmilitary Service; is that correct?

13 A. Yes.

14 Q. Good. And it was signed June 24th of 2019?

15 A. Yes.

16 Q. If you filed the paperwork in February on the
17 14th why did it take three months, until May 20th of
18 2019, to post the document?

19 A. I don't believe that -- sorry. Can you state
20 the question again?

21 Q. Yeah, if you commenced the action on
22 February 4th of 2019 but didn't post the document until
23 May 20th of 2019, three months later, why not earlier
24 than that?

25 A. We were attempting to find her.

1 Q. For three months?

2 A. Yes.

3 Q. Okay. And what method was used to attempt to
4 find her for those three months?

5 A. The private investigator.

6 Q. Just what we've discussed, right, nothing else?

7 A. Correct.

8 Q. Okay. It doesn't say anything in here about
9 having mailed a copy of the summons and petition to
10 mother. Did you mail a copy to mother?

11 A. I would assume so, but I don't know.

12 Q. Did you mail a copy of the summons and petition
13 and other legal paperwork to mother at her last known
14 address?

15 A. I don't know.

16 Q. Okay. Did you mail a copy to mother by
17 certified or registered mail?

18 A. I don't know.

19 Q. Did you get an envelope back from the U.S. Mail
20 that was undeliverable?

21 A. Not that I remember.

22 Q. Okay. Did you receive then a green postal
23 return receipt back from the U.S. Postal Service?

24 A. Not that I remember.

25 Q. You don't have a copy of an envelope or a

1 postal return receipt in this matter?

2 A. No.

3 Q. And neither did you allege in your declaration
4 that the documents had been mailed to mother, correct?

5 A. In the Affidavit of Nonmilitary Service, yes,
6 that's correct.

7 Q. So the fact is, the truth is you didn't mail a
8 copy of these documents to mother by U.S. Postal Service,
9 regular first-class mail or certified registered mail?

10 A. I don't know.

11 Q. You don't have any recollection of doing that,
12 correct?

13 A. Correct.

14 Q. You were aware of her last known address,
15 weren't you?

16 A. Yes.

17 Q. Is there a reason you didn't mail it to her?

18 A. Like I said, I don't know.

19 Q. Okay. Her last known address was the
20 125 Expo Parkway NE address, correct?

21 A. At the time of the filing, yes.

22 Q. Yeah. Did you attach to your declaration here
23 a statement from the department of defense website
24 verifying that my client was not in the military?

25 A. No.

1 Q. Back to Exhibit 1, page 3, your petition. In
2 your petition you allege that "mother should be awarded
3 parenting time with the minor children as is reasonable
4 under the circumstances." And I'm referring to page 3 of
5 that Exhibit 1. Do you have that?

6 A. Yes.

7 Q. Then on page 53 of this Exhibit 1 it looks like
8 you've filed with the court a judgment awarding mother no
9 parenting time until certain conditions were met, and the
10 court sent you a notice of problem with documents. Do
11 you recognize that document on page 53?

12 A. Yes.

13 Q. Okay. Did you respond to that by then filing
14 with the court a Motion for Entry of Judgment?

15 A. Yes.

16 Q. And a declaration?

17 A. Yes.

18 Q. Turn to page 56. Do you have that page?

19 A. Yes.

20 Q. Starting at line 3 you state, "Respondent,
21 Jamie Clark, has mental health issues which are not
22 currently being treated."

23 A. Correct.

24 Q. How do you know that she has mental health
25 issues?

1 A. She has told me so.

2 Q. How did you know on August 9th of 2019 that
3 they were not currently being treated?

4 A. That was the last information I had.

5 Q. So you didn't know on August 9th, 2019, that
6 she was not receiving mental health treatment?

7 A. Correct.

8 Q. Again, you told the court that you had
9 guardianship of the children?

10 A. In this document?

11 Q. Yes.

12 A. Yes.

13 Q. You told the court that the children had been
14 in foster care in Illinois, correct?

15 A. Yes.

16 Q. And then you said that the foster care in
17 Illinois was based on Jamie Clark's mental health issues,
18 abuse and neglect of the children and inability to
19 protect the children from abuse and neglect from her
20 romantic partners.

21 A. I think you are frozen.

22 Q. Am I frozen? Did you answer my question?

23 A. No, I didn't.

24 Q. Okay. You stated that the reason the children
25 were in foster care in Illinois was based on "Jamie

1 Q. So DHS Oregon advised you that the reason the
2 children were in foster care in Illinois was based upon
3 Jamie Clark's mental health issues, abuse and neglect of
4 the children and inability to protect the children from
5 abuse and neglect?

6 A. That was part of the discussion, yes.

7 Q. You told them that or they told you that?

8 A. I don't recall. Again, I've had multiple
9 discussions.

10 Q. Okay. When did you first speak to DHS about
11 Sadie or Sage?

12 A. I don't know.

13 Q. How many times have you spoken to DHS about
14 Sadie or Sage?

15 A. I don't know.

16 Q. Who have you spoken to at DHS about Sadie or
17 Sage?

18 A. I don't know their name.

19 Q. Do you have notes?

20 A. No.

21 Q. Did you call DHS to make a report of abuse or
22 child (inaudible) --

23 A. You are breaking up again.

24 Q. Did you call DHS to report abuse or to do a
25 welfare check?

1 A. Yes.

2 Q. When did you call DHS?

3 A. I don't know.

4 Q. Was it after you had obtained a judgment
5 awarding you custody?

6 A. Possibly. I don't know.

7 Q. What did you report to them when you called
8 them?

9 A. I reported that Mr. and Mrs. Waters were again
10 in contact with the children and my concerns regarding
11 Ms. Clark's parenting and allowing the Waters to be in
12 contact with the children again.

13 Q. Okay. Are you aware of a DHS case ever being
14 opened regarding Sage or Sadie?

15 A. Yes.

16 Q. Okay. When was that case opened?

17 A. I don't know.

18 Q. Was that opened in response to your report to
19 them?

20 A. I don't know.

21 Q. Well, how do you otherwise know that there was
22 a DHS report opened, if it wasn't your having called them
23 to make a report?

24 A. There were multiple DHS cases open, so I don't
25 know.

1 Q. After you made the report to DHS that you made
2 did somebody call back to interview you?

3 A. Yes.

4 Q. Do you recall who that was?

5 A. No.

6 Q. Did you keep notes of that?

7 A. No.

8 Q. Are you aware of any other person, and I just
9 want to know the name of the person, who's made a report
10 to DHS in Oregon about my client's care for the children?

11 A. I -- I wouldn't know.

12 Q. Okay. How about in Texas or Illinois, are you
13 aware of any person by name that's made a report
14 regarding my client's care of the children?

15 A. No.

16 Q. When you said -- starting on line 7,
17 "Additionally, there is open DHS investigations regarding
18 Jamie's ability to safely parent Sage and Sadie." Are
19 you talking about the one that you called in?

20 A. Yes.

21 Q. Okay. You're certain that they opened and had
22 open at the time that you stated this a DHS investigation
23 regarding Jamie's ability to safely parent Sage and
24 Sadie?

25 A. I believe so, yes.

1 Q. And that was based on your allegation of abuse,
2 correct?

3 A. Correct.

4 Q. You then say, "Jamie Clark has failed to remedy
5 factors which place the children in danger." Okay.
6 Which factors are we talking about?

7 A. She was continuing to allow the children to be
8 around people who abused them.

9 Q. Didn't she actually place the children with you
10 for about six weeks to protect them from those people
11 that were bothering her?

12 A. No.

13 Q. Well, why did the children go to live with you
14 for that period of six weeks when you had custody of the
15 children but didn't tell her?

16 A. She asked me to come pick them up. She was
17 overwhelmed.

18 Q. I thought we discussed earlier that she called
19 you and reached out to you because there was some people
20 that were stalking her and she wanted you to care for the
21 children for a period. Is that not what you testified
22 to?

23 A. That was part of the discussion, yes.

24 Q. Okay. So other than you think she's exposing
25 the children to dangerous people, what other factors are

1 you talking about here when you say that she failed to
2 remedy factors?

3 A. She was consistently moving with them. And at
4 that point, just from previous posts that she had made,
5 it appeared that the children were being abused or
6 neglected, and DHS was interviewing people regarding
7 that.

8 Q. So again, the open DHS case that you had called
9 in?

10 A. Again, I don't know if other people called. I
11 only know about what I talked to DHS about.

12 Q. Okay. And again, this affidavit or declaration
13 is being signed on August 9th of 2019. You haven't seen
14 the children in six months, have you?

15 A. Correct.

16 Q. Why didn't you tell the court, I haven't seen
17 these children in six months?

18 A. I don't know.

19 Q. In this document did you list where the
20 children had resided for the preceding five years?

21 A. In the Declaration of Petitioner?

22 Q. Yes.

23 A. No.

24 Q. In the judgment, Exhibit 2, the General
25 Judgment, did you identify in there where the children

1 A. No.

2 Q. Okay. How about homicidal; what evidence or
3 document do you have suggesting that Ms. Clark may be a
4 murder, homicidal?

5 A. I don't have any.

6 Q. Well, why did you put that?

7 A. It's part of the standard language.

8 Q. What standard language?

9 A. That is used in cases such as these.

10 Q. Where did you get that standard language?

11 A. From the court.

12 Q. Okay. So when you say from the court, are you
13 saying from court staff or from court libraries or where?

14 A. Just pleadings I had reviewed in court.

15 Q. Okay. So where did you make the review of
16 these pleadings?

17 A. On eCourt.

18 Q. Okay. And so you at this time on August 9th of
19 2019, you had access to the judicial network eCourt
20 system?

21 A. Yes.

22 Q. And was that through your employer?

23 A. Yes.

24 Q. And how did you go about identifying cases that
25 would have this kind of language in them? How did you

1 locate those?

2 A. I don't remember.

3 Q. So you didn't go to a law library, you didn't
4 use bar books, you just found it in some other person's
5 pleadings that were filed with the court?

6 A. I believe so.

7 Q. Referring to page 56 there starting at line 14
8 you state, "If it is determined that Jamie Clark is not a
9 threat to minor children, Jamie Clark should have
10 parenting time and shall be exercised as the parties
11 mutually agree pursuant to the professional direction of
12 the children's therapist and as allowed by the Department
13 of Human Services."

14 So who was it that (inaudible) --

15 A. You're frozen again.

16 Q. Yeah, who was the children's therapists? Who
17 was the child's therapist?

18 A. On August 9th, 2019?

19 Q. Yeah.

20 A. I don't know.

21 Q. Okay. And you say, "and as allowed by the
22 Department of Human Services."

23 A. Correct.

24 Q. Right.

25 A. (Nodding head.)

1 Q. So who at the Department of Human Services was
2 involved on August 9th of 2019 with determining
3 appropriate parenting time with Mom?

4 A. I don't know.

5 Q. It sounds like you didn't know if she was a
6 threat to the children, you wanted to investigate that,
7 right?

8 A. No.

9 Q. You knew she was a threat to the children?

10 A. That was my belief, yes.

11 Q. Yeah, all right. So the judgment, Exhibit 2,
12 page 2, please. I'm referring to subparagraph 2(d). You
13 say here "Oregon has jurisdiction to make a custody and
14 parenting time determination involving the minor
15 children, Sage Clark and Sadie Clark, because Oregon has
16 been the home state of the minor child during the
17 six-month period preceding the filing of this action."

18 So, in fact, you did know that the children had
19 to reside six months prior to the filing of this action
20 for jurisdiction of the children, correct?

21 A. Can you restate that?

22 Q. You did know, in fact, that the children needed
23 to reside in Oregon for six months prior to filing this
24 action for the court to have jurisdiction of the
25 children?

1 A. No.

2 Q. Why did you put this paragraph here?

3 A. There was a previous custody judgment involving
4 Ms. Clark and her ex-husband that had to do with custody
5 of the children, so there was already jurisdiction in
6 Oregon.

7 Q. No, you state here that Oregon has jurisdiction
8 to make a custody and parenting time determination
9 because Oregon has been the home state of the minor child
10 during the six month period preceding the filing of this
11 action."

12 A. Correct, that's what it says.

13 Q. Is that true; that Oregon had been the home
14 state of the minor children during the six month period
15 preceding the filing of this action?

16 A. Prior to the filing of the judgment, yes.
17 Prior to the filing of the petition, no.

18 Q. Right. You were not modifying the prior
19 judgment between the parties, their divorce judgment,
20 were you?

21 A. No.

22 Q. You didn't file this within that action, did
23 you?

24 A. No.

25 Q. You filed an independent action for custody of

1 the children?

2 A. Correct.

3 Q. Okay. Did you say anything in your petition
4 about a psychological evaluation?

5 A. I'd have to look.

6 Q. Go ahead and look.

7 A. No.

8 Q. Okay. And you didn't say anything in the
9 petition, now that you've reviewed it, about mother
10 taking a parenting class, correct?

11 A. Correct.

12 Q. Okay. So between filing the petition where you
13 said that Mom should have parenting time as is reasonable
14 under the circumstances and filing the judgment what
15 information did you get that caused you to ask for a
16 psychological evaluation?

17 A. She had disrupted the normal schedule of the
18 children pretty abruptly, and then she was having contact
19 again with people who had abused the children.

20 Q. Let me ask that again because I think you
21 missed a little bit of that question. Between when you
22 filed the petition on February 14 of 2019 where you said
23 that she should have parenting time as is reasonable
24 under the circumstances, between that date of filing the
25 petition and when you entered the judgment requiring a

1 A. I don't know. I'd have to look.

2 Q. When you told the court in this paperwork that

3 you taught the children sign language --

4 A. Uh-huh.

5 Q. -- are you a sign language instructor?

6 A. No.

7 Q. Do you speak sign language?

8 A. Somewhat.

9 Q. And how did you learn sign language?

10 A. I was deaf as a child.

11 Q. So you can correspond fluently in sign?

12 A. No.

13 Q. So what do you know in sign what can you do in

14 sign?

15 A. I know some signs. I wouldn't say I'm fluent,

16 but I do know some sign language.

17 Q. Do (inaudible) --

18 A. I can't hear you.

19 Q. Do you know the alphabet in sign?

20 A. Yes.

21 Q. Okay. So were you teaching the children kind

22 of the normal kind of sign communications of love, those

23 kinds of things the children are taught?

24 A. Yes.

25 Q. Did you teach them the alphabet?

1 A. Yes.

2 Q. Could the children perform the alphabet in sign
3 language?

4 A. I don't know. They were very little at this
5 point, so I don't know.

6 Q. What year was that?

7 A. I mean, I -- it started in 2017 up until
8 present.

9 Q. Well, I'm talking about from 2017 until my
10 client took the children back in 2019, in February of
11 2019, during that period of time is that when you taught
12 them these things?

13 A. Yes.

14 Q. Is that when you taught them the alphabet?

15 A. We were working on it, yes.

16 Q. When were they first able to do the alphabet in
17 sign language?

18 A. Maybe a year ago or so. I'm not sure.

19 Q. Well, you've had custody of them for two years,
20 right?

21 A. Correct.

22 Q. So what is Sadie's date of birth?

23 A. 7/14/17.

24 Q. And Sage's date of birth?

25 A. 6/10/16.

1 COURT REPORTER: What was the year?

2 THE WITNESS: 2016.

3 BY MR. YOUD:

4 Q. So in February of 2019 when my client took
5 Sadie back shortly before you filed your petition where
6 you made these allegations about teaching the children
7 sign language Sadie was approximately a year and a half?

8 A. Correct.

9 Q. Okay. Had you taught her the alphabet in sign
10 language in a year and a half?

11 A. I don't know.

12 Q. What sign language had you taught her at a year
13 and a half?

14 A. Just basic needs. So more, thank you, up,
15 water, no. I don't know all of the signs, but those are
16 some of the ones she used most frequently.

17 Q. At a year and a half?

18 A. Yes.

19 Q. And then Sage at the time was just a year older
20 than that, so about two and a half.

21 A. Right.

22 Q. And she at two, did she know the alphabet at
23 two and a half in sign?

24 A. I don't think she knew it completely, no.

25 Q. The children aren't deaf, correct?

1 A. Correct.

2 Q. Were you living with Ms. Clark at that time?

3 A. At what time?

4 Q. When you were teaching them sign language.

5 A. For part of the time, yes.

6 Q. Okay. Were you in a relationship with

7 Ms. Clark?

8 A. No.

9 Q. And what brought you into the household of

10 Ms. Clark?

11 A. Ms. Clark moved in with me.

12 Q. Okay. And what was the impetus for that?

13 A. She was leaving her husband.

14 Q. Okay. How did you know Ms. Clark to have her
15 move in with you?

16 A. She was a friend of my girlfriend's at the
17 time.

18 Q. Mother had the children fully immunized,
19 correct?

20 A. At what point?

21 Q. I mean, throughout their childhood she had them
22 fully immunized when they should have been?

23 A. No.

24 Q. What immunizations were missed?

25 A. A majority of them.

1 her counselor.

2 Q. Okay. And tell me about the conversation.
3 What happens, what's said?

4 A. I mean, generally the conversation is regarding
5 Ms. Clark's current parenting time and the inconsistency
6 of it and how that's affecting Sage.

7 Q. So Sage isn't asked how she feels about
8 Ms. Clark or --

9 A. I'm sure she is. I'm not there for the
10 appointments.

11 Q. Does Ms. Clark have another child?

12 A. Other than Sage?

13 Q. Other than Sage and Sadie.

14 A. Yes.

15 Q. Okay. And is that child currently in her care?

16 A. I believe so, yes.

17 Q. So no protective service that you're aware of
18 has taken that child from her?

19 A. Not that I know of.

20 Q. How do the children feel about that child? Do
21 they want to have a relationship with that child?

22 A. Yes.

23 Q. Okay. And when I say children, I was talking
24 about Sage and Sadie. Do they both express that?

25 A. Yes.

1 MR. YOUD: No further questions.

2 MR. IVERS: Okay.

3 MR. YOUD: You know, before you take us
4 off of the record right there, let me take a five-minute
5 break. I'm going to call my client and confer and make
6 sure she doesn't have any further questions.

7 (Recess.)

8 BY MR. YOUD:

9 Q. Back on Exhibit 1, you've got that still in
10 front of you?

11 A. Yes.

12 Q. If you will turn to page 87.

13 A. Okay.

14 Q. At one point in this case Ms. Clark had filed
15 on her own a motion to set aside the judgment. You had
16 responded to that and then in responding to that you had
17 filed a declaration. I believe that's what this is,
18 Declaration of Petitioner, and it's dated June 25th of
19 2021.

20 A. Correct.

21 Q. Yeah, is that your signature on that document?

22 A. It is.

23 Q. Okay. So in this document you attach an
24 Exhibit No. 3 which is on page 102. Go ahead and turn to
25 page 102.

1 A. Correct.

2 Q. Do you see that?

3 A. Yes.

4 Q. So is this a message that you sent to Ms. Clark
5 regarding the guardianship that you had prepared and had
6 signed in Illinois?

7 A. I believe so. It's -- it's kind of cut off, so
8 I can't tell.

9 Q. It's your exhibit, it says here. Do you know
10 how this was communicated to her? Is that an email, a
11 Facebook message or a text?

12 A. I believe it's an email.

13 Q. It says here, "Here is the paperwork we signed.
14 I have also attached the website that I sent you in the
15 past which explains that for the type of guardianship I
16 have you do not need to go to court. I will see you at
17 6 p.m."

18 When did you send this communication?

19 A. I don't know.

20 Q. You attached it as Exhibit 3. If I go up into
21 the body of this declaration and find Exhibit 3, it's on
22 page 90 of my exhibit and starting at line 18 it says,
23 "Respondent, Jamie Clark, submitted proof via her
24 Exhibits A, B and D attached hereto as Exhibit 3 and by
25 reference herein incorporated that there was a prior

1 existing guardianship appointing petitioner as guardian
2 over the minor children, Sage and Sadie."

3 So when you were saying to Ms. Clark in this
4 email, Exhibit 3, "I will see you at 6 p.m.," wasn't that
5 you saying I have guardianship?

6 A. You're breaking up.

7 Q. When you said to Ms. Clark in this email that
8 is page 102 of my Exhibit 1 that you would see her at
9 6 p.m., weren't you communicating to her that you had
10 guardianship and that you were demanding to have the
11 children back at 6 p.m.?

12 A. No.

13 Q. What were you saying when you said, I will see
14 you at 6 p.m.?

15 A. I believe we were having a conversation
16 regarding the paperwork she had signed and whether it
17 needed to be filed with the court, and per our parenting
18 time agreement my pick up time was 6 p.m.

19 Q. Right. Was she arguing that you had not filed
20 it with the court and you were explaining to her that you
21 didn't need to?

22 A. I believe so.

23 Q. Okay. Weren't you telling her that to convince
24 her that you had guardianship?

25 A. No.

1 Q. Why were you telling her that?

2 A. She was -- had some questions about the
3 paperwork she had signed, so I was just giving her the
4 information that I had.

5 Q. Okay. Well, turn to the same exhibit that you
6 attach there to your declaration, go a couple more pages
7 to page 104 of my Exhibit 1. This is the communication
8 you received back from Ms. Clark in response to the
9 communication we addressed a moment ago.

10 And she says, "Okay. So you sent that to my
11 old email account. The new one is
12 oregon.pixie@gmail.com, but I'm glad it came through.
13 Aside from the fact that in Oregon you need to file the
14 paperwork to take temporary guardianship, the website you
15 are going off of states that a parent can end the
16 guardianship at any time.

17 "So we are done with this conversation. Do not
18 show up or I will call the police. If you want to
19 continue to attempt to take my children from me, you need
20 to file the paperwork so we have something to work with.
21 Otherwise you are not a legal temporary guardian and need
22 to not contact me again. As I stated, the paperwork
23 expires November 4, 2019, if not before then and needs to
24 be filed to be valid. Have a good night."

25 So weren't you in a dispute with Ms. Clark at